

Claudette P.

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554
JUL 31 2003

OFFICE OF
MANAGING DIRECTOR

William H. Fitz
Covington & Burling
1201 Pennsylvania Avenue, NW
Washington, DC 20004-2401

RE: Request of Benedek License Corporation Waiver of
FY 2001 Regulatory Fee and Penalty Earth Station
E870003 (Regulatee: The Chronicle Publishing Company)
Fee Control Number 00000 RROG 03 013

Dear Mr. Fitz:

This is in response to your request dated October 8, 2002, (Request) filed on behalf of Benedek License Corporation (Benedek) to waive the FY 2001 regulatory fee and penalty, \$180 and \$45, respectively, pertaining to transportable earth station authorization E870003. For the reasons discussed below, we find that Benedek is not responsible for the regulatory fee; consequently, we dismiss the Request as moot and cancel Bill Number 02-INB0148.¹

Introduction

On August 14, 1997, The Chronicle Publishing Company (Chronicle) applied to renew earth station license E870003² and for authorization to construct and operate a new earth station (call sign E970419).³ In response, on August 29, 1997, pursuant to delegated authority, the International Bureau (Bureau) granted the renewal of E870003 for the term June 26, 1997 to June 26, 2007.⁴ Later, on October 17, 1997, pursuant to delegated authority, the Bureau granted Chronicle authority to construct and operate the new earth station E970419, the term of which ran from October 17, 1997 to October 17, 2007. Thereafter, as part of an effort to sell off its assets and dissolve its status, Chronicle applied for consent to assign earth station E970419 to Benedek,⁵ which the Bureau consented to on February 25, 2000.⁶ Benedek states that since the sale of KAKE-TV, Chronicle has not been in the broadcast business, and it has no operations

¹ The Bill in question was sent to The Chronicle Publishing Company, former licensee of KAKE-TV, Wichita, KS, which license was assigned to Benedek in 1999. The earth station authorization was used in connection with the operation of KAKE-TV, but it was not assigned with the broadcast license.

² Public Notice (PN), *Satellite Communications Services*, Report No. DS-1776, September 3, 1997, 1997 WL 536396 (FCC).

³ PN, *Satellite Communications Services Information*, Report No. DS-1765, September 3, 1997, 1997 WL 536444 (FCC).

⁴ PN, *Satellite Communications Services*, Report No. DS-1766, September 3, 1997, 1997 WL 536396 (FCC).

⁵ PN, *Satellite Communications Services*, Report No. SES-00148, January 19, 2000, 2000 WL 35658 (FCC). In its request, Chronicle noted, "Call sign E850153 will not be included with this assignment of license, because the license has expired." Call sign E850153 was in the name of Chronicle Broadcasting of Omaha, Inc (d/b/a WOWT TV).

⁶ PN, *Satellite Communications Services Information*, Report No. SES-00161, March 1, 2000, 2000 WL 228477 (FCC).

related to the use of the earth station.⁷ In addition, the media reported Chronicle's successful dismantling, and thereafter Chronicle apparently dissolved its status as a Nevada corporation as well as its California business registration.⁸ Notwithstanding Chronicle's various applications pertaining to earth station E970419, and the Commission's actions thereon, nothing affected earth station E870003 and the Commission's records show that it was operational and licensed to Chronicle until June 28, 2002, at which time Benedek surrendered the license.⁹

Discussion

The Commission granted Chronicle's renewal application for earth station license, E870003, for the term from June 26, 1997 to June 26, 2007. Once the Commission renewed the license, Chronicle was obligated to comply with the Commission's rules, pay annual regulatory fees,¹⁰ and pertinent to the matter at hand, Chronicle was "required to notify the Commission when [its] receive-only earth station [was] no longer operational or when it h[ad] not been used to provide any service during any 6 month period."¹¹ Alternatively, and to the extent that Chronicle intended to assign or transfer control of the authorization for earth station E870003, it was required to apply to the Commission for such authorization.¹² Because Chronicle did not notify the Commission that earth station E870003 was no longer operational or not used to provide any service, and Chronicle did not apply to assign or transfer the authorization, Chronicle was responsible for the annual regulatory fees until a change was accomplished, e.g., it surrendered the license. During the pertinent period, we have no evidence that Benedek was either the assignee of earth station E870003 or the legal successor to the obligations of Chronicle. Consequently, Chronicle, not Benedek, is financially responsible for the regulatory fee. However, Chronicle surrendered its registration to conduct business and it has dissolved its corporate status.

⁷ We understand that the earth station was a news gathering receiver used to support the broadcast operations of the television station.

⁸ We have no record that Chronicle notified the Commission of the dissolution or that it requested final billing of its unpaid obligations.

⁹ PN, *Satellite Communications Services Information, Report No. SES-00415*, July 31, 2002, 2002 WL 1765977 (FCC) Benedek states, however, that earth station E870003 was not in use after Chronicle received authorization for earth station E970419.

¹⁰ 47 U.S.C. 159; 47 CFR § 1.1151.

¹¹ 47 CFR § 131(i).

¹² 47 CFR § 25.119.

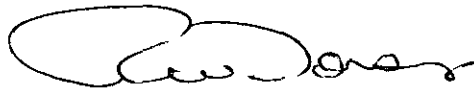
Mr. William H. Fitz

3.

Conclusion

Because Chronicle was the regulatee during the pertinent period, Benedek is not financially responsible for the fee and penalty. Accordingly, we dismiss the request for a waiver as being moot and cancel the Bill. If you have any questions concerning this letter, you may call the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark A. Reger', with a large, loopy initial 'M'.

Mark A. Reger
Chief Financial Officer

COVINGTON & BURLING

1201 PENNSYLVANIA AVENUE NW WASHINGTON, DC
WASHINGTON, DC 20004-2401 NEW YORK
TEL 202.662.6000 LONDON
FAX 202.662.6291 BRUSSELS
WWW.COV.COM SAN FRANCISCO

WILLIAM H. FITZ
TEL 202.662.5120
FAX 202.778.5120
WFITZ@COV.COM

October 8, 2002

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VIA FACSIMILE & HAND DELIVERY

OCT - 8 2002

Federal Communication Commission
Bureau/Office

Ms. Claudette E. Pride
Federal Communications Commission
Revenue & Receivables Operations Group
445 12th Street, S.W., Room 1 A821
Washington, DC 20554

**E870003, FY 2001 Regulatory Fee
Request for Waiver of FY 2001 Regulatory Fee and Late Penalty
Response to Bill Number 02-INB0148 dated September 13, 2002**

Dear Ms. Pride:

This letter is a response to the above-referenced Bill for Collection, regarding payment of the FY 2001 regulatory fee for Call sign E870003, which was addressed to The Chronicle Publishing Company ("Chronicle") at 1500 North West St., Wichita, KS 67201. See Annex A attached hereto. We respectfully request waiver of the FY 2001 regulatory fee and penalty. As stated in our letter of July 10, 2002, in response to your letter regarding a FY 2000 regulatory fee, E870003 was no longer in use by any party after October 17, 1997 and had been replaced by another authorization for which the regulatory fee was duly paid. E870003 is the call sign of a former transportable earth station, which was used for satellite newsgathering (SNG) by KAKE-TV, Wichita, Kansas, prior to October 17, 1997. As noted below, in late 1997 a new license was issued for this facility with the call sign E970419. After late 1997, KAKE-TV has used E970419 for its SNG activities and not E870003.

The source of the confusion may be that in 1997, Chronicle, as then licensee of KAKE-TV, was issued a construction permit and license for E970419 in lieu of a modified license for E870003. Due to oversight, the E870003 license expired shortly before Chronicle was ready to submit a modification application. The International Bureau issued authorizations in response to both a late-filed renewal application of E870003 and the application for a new station (which was submitted in lieu of a modification application), despite the fact that Chronicle explained that the application for a new authorization was submitted in lieu of, and in substitution for, an application for modification of E870003. In 1999, Chronicle assigned the broadcast station license of KAKE-TV to Benedek License Corporation ("Benedek"). In that

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Ms. Claudette E. Pride
October 8, 2002
Page Two

transaction, the license of E970419 was assigned to Benedek (but not E870003, which was considered to have been replaced by E970419). Chronicle did not assign the license of E870003, because the facilities in that license were no longer in use and Chronicle believed the license was no longer valid. Because satellite earth station E870003 was not in use by any party at any time since 1997 and the regulatory fee for what was considered the replacement authorization was duly paid, the public interest is served by waiving any FY 2001 fee for E870003. As noted, these facts were previously in our letter of July 10, 2002, in response to your letter regarding a FY 2000 regulatory fee associated with E870003.

Since the sale of KAKE-TV, Chronicle has not been in the broadcast business, and to our knowledge, no longer has any operating divisions. As noted, when Benedek purchased KAKE-TV in March 2000, it acquired the license for E970419 and not the license for E870003 (which had not been in use since October 1997). To help clarify the FCC's records, on July 10, 2002, we requested that the license for E870003 be cancelled effective October 17, 1997. By Public Notice released July 31, 2002, the International Bureau announced that the license was surrendered pursuant to our letter of July 10, 2002. See annotated Annex B attached hereto.

Any questions concerning this matter may be directed to the undersigned.

Respectfully yours,

A handwritten signature in dark ink, appearing to read "WH Fitz", written in a cursive style.

William H. Fitz
Counsel for Benedek License Corporation

Attachments

FOR INQUIRIES CALL
1-202-418-1995
(Credit and Debt Management Group)

DATE _____

1201 PENNSYLVANIA AVENUE NW WASHINGTON, DC
WASHINGTON, DC 20004-2401 NEW YORK
TEL 202 662 6000 LONDON
FAX 202 662.6291 BRUSSELS
WWW COV COM SAN FRANCISCO

WILLIAM H FITZ
TEL 202 662.6120
FAX 202.778 6120
WFITZ@COV.COM

July 10, 2002

BY HAND

Ms. Marlene H Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Attn: International Bureau
Satellite Earth Station Licensing

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JUL 10 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

E870003
formerly used with KAKE-TV, Wichita, KS
SES-RWL-19970814-01125
Surrender of License for Cancellation

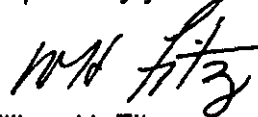
Dear Ms. Dortch:

Benedek License Corporation ("Benedek"), respectfully requests that the authorization for Domestic Satellite Temporary Fixed earth station license E870003 be cancelled effective October 17, 1997.^{*} E870003 is the authorization for a satellite newsgathering (SNG) facility that was used with KAKE-TV, Wichita, Kansas, prior to October 17, 1997. Benedek acquired KAKE-TV from The Chronicle Publishing Company ("Chronicle") on March 31, 2000.

As noted in the attached letter to Ms. Pride of the Revenue & Receivable Operations Group, in mid-1997, Chronicle, the then-licensee of KAKE-TV, discovered that the authorization for E870003 had expired and it obtained a new modified authorization, E970419, to replace it. E870003 was no longer used following the issuance of the license for E970419 (as noted, Chronicle believed that E970419 replaced E870003). As part of its acquisition of KAKE-TV in 2000, Benedek acquired E970419, but not E870003 - which Chronicle considered to have been replaced. To correct FCC records, the authorization for E870003 is being surrendered and should be cancelled.

Any questions concerning this matter may be directed to the undersigned.

Respectfully yours,



William H. Fitz
Counsel for Benedek License Corporation

*emphasis added

Attachment

7/31/02

INFORMATIVE

SES-RWL-19920630-01338 WT73 CHARTER COMMUNICATIONS VI, LLC

Licensee has surrendered license, per letter dated July 22, 2002.

SES-RWL-19920717-01204 WU65 TCI CABLEVISION OF ALABAMA, INC.

Licensee has surrendered license, per letter dated July 19, 2002.

SES-RWL-19920911-00650 WT46 CHARTER COMMUNICATIONS VI LLC

Licensee has surrendered license, per letter dated July 23, 2002

SES-RWL-19940224-01785 E6938 LIVEWIRE NETWORK SERVICES, LLC

Licensee has surrendered license, per letter dated July 15, 2002.

SES-RWL-19940224-01794 E6834 COMSAT VIDEO ENTERPRISES, INC. (d/b/a Comsat)

Licensee has surrendered license, per letter dated July 15, 2002.

SES-RWL-19940621-01111 E7418 COMSAT VIDEO ENTERPRISES INC (d/b/a Comsat)

Licensee has surrendered license, per letter dated July 15, 2002

SES-RWL-19970324-00398 E4185 MEREDITH CORPORATION-KPHO TELEVISION (d/b/a Kpho TV)

Licensee has surrendered license, per letter dated June 28, 2002.

[SES-RWL-19970814-01125 E870003 THE CHRONICLE PUBLISHING COMPANY (d/b/a Chronical Broadcasting Co)]

Licensee has surrendered license, per letter dated July 10, 2002.

SES-RWL-19980116-00086 E860650 CABLEVISION OF WAPPINGERS FALLS, INC.

Licensee has changed name and address, per letter dated June 18, 2002.

SES-RWL-20010215-00368 E2844 TIME WARNER ENTERTAINMENT COMPANY, L.P.

Licensee has surrendered license, per letter dated July 22, 2002

For more information concerning this Notice, contact the Satellite and Radiocommunication Division at 418-0719; TTY 202-418-2555.